HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 11450 OF 2006

ORDER:

This Writ Petition is filed seeking Writ of Mandamus, to declare Memo No.250/H/04-05/Acad/IV-2, dated 30-1-2006, and, further, proceedings No.554-MR/H-B.Ed/2005-06/Acad/IV-2, dated 18-4-2006, issued by the Registrar, Osmania University, as illegal and arbitrary.

The petitioner is a College of Education, having due permission from the National Council of Teachers Education and affiliated to Osmania University, with approved intake capacity of 100 students. As per the applicable rules, the Management is entitle to fill up 15% of the seats and 85% of the seats are to be allotted by the Convener, Education Common Entrance Test. During the academic year 2004-2005, the convener had allotted only 83 students to the petitioner-College and issued proceedings No.3315/Edcet/2004, dated 22-8-2005, authorizing various colleges to fill up unfilled seats. On the ground that the said communication was not received by the petitioner-College, and, on coming to know about the said communication, the petitioner-College had made a representation on 30-8-2005 to allot remaining two candidates or in the alternate, permit the Management to fill up the said seats. On the ground that no reply is given, and, earlier, proceedings dated 22-8-2008 were issued authorizing the college to fill up unfilled seats, the petitioner-College had filled the remaining two seats. But, however, at the time of submitting examination forms, objection was raised with regard to those two admissions and the said admissions were regularized by proceedings dated 30-1-2006 by imposing penalty of

Rs.1,00,000/- (Rs.50,000/- per candidate) for making two direct admissions to the vacant seats under the Convener quota for the academic year 2004-2005. But, however, the respondents have further ordered for reduction of two seats under the Management quota for the academic year 2005-2006. Further, when the application was made for extension of affiliation for the years 2005-2006, the first respondent has issued proceedings No.554-MR/H-B.Ed/2005-06/Acad/IV-2, dated 18-4-2006 extending affiliation, by showing number of seats as 98 in view of the proceedings dated 30-1-2006 reducing two seats under the management quota.

In this writ petition, proceedings dated 30-1-2006 and 18-4-2006 are questioned to the extent of reducing two seats under the management quota. It is submitted by Sri K.Ram Reddy, learned Counsel appearing for the petitioner that having regularized the two admissions made by the management, by imposing penalty of Rs.1,00,000/-, without any valid reasons, the respondents have passed the orders reducing two seats under the management quota for the academic year 2005-2006. It is further submitted that when the intake capacity is 100, there is no power conferred on the respondents to reduce the management quota, that too, without giving any prior notice and opportunity.

Counter affidavit is filed on behalf of the respondents, stating that during the academic year 2004-2005, the petitioner-college has violated the rules and made two admissions on its own, exceeding the permitted percentage of 15; in that view of the matter, in the interest of students, the said admissions were regularized by imposing penalty, but however, by reducing two seats under the management quota for the academic year 2005-2006. It is further

stated, that reduction of two seats in the affiliation proceedings, is in view of the proceedings dated 30-1-2006. It is submitted by Sri Deepak Bhattacharjee, the learned Standing counsel appearing for the respondents that having accepted the proceedings dated 30-1-2006 by giving undertaking, it is not open for the petitioner to question the same. It is further submitted by the learned Standing Counsel that the petitioner-College has admitted two candidates in the vacant seats under the convener quota during the academic year 2004-2005, and in that view of the matter, two seats were reduced in the academic year 2005-2006.

With reference to the above submissions, it is to be seen, fixation of intake capacity, is primarily by the authority constituted under the National Council for Teachers Education Act, 1993. The intake capacity will be fixed having regard to the availability of infrastructure, accommodation etc.,. Even for the academic year 2004-2005, it was the case of the petitioner that the convener did not allot full strength for want of candidates and it is also their case that proceedings No.3315/Edcet/2004, dated 22-8-2005 issued by the convener, authorizing the colleges to fill up unfilled seats under the convener quota by the management, was not received by the petitioner-College. It is also not denied that further representation was made by the petitioner-College in this regard on 30-8-2005. In any event, it is to be seen, even the two admissions made under the convener quota by the management were regularized by imposing huge penalty of Rs.50,000/- per candidate. In that view of the matter, there is absolutely no reason or justification for reducing further two seats in the quota meant for management during the academic year 2005-2006. In any event, the intake capacity, which is fixed by the competent authority under the National Council for Teachers

Education Act, 1993, should not be varied by the affiliating authority, by reducing seats while issuing proceedings dated 18-4-2006. Further, there is no valid reason for reducing two seats while extending affiliation for the academic year 2005-2006. In the proceedings dated 30-1-2006, it was ordered for reduction of two seats under the management quota, but, however, there was no order for reduction of intake capacity so as to extend affiliation, confining to 98 seats only. Further, there was also no prior notice or enquiry before issuing the proceedings dated 30-1-2006 or 18-4-2006, either for reduction of seats in the management quota or extending affiliation by confining to 98 seats. Though it is submitted by the learned Standing Counsel for the respondents that there was an undertaking given by the petitioner-College, but however, it is to be seen, undertaking given by the petitioner will not come in their way to question impugned proceedings. However, I do not find any illegality in imposing penalty of Rs.1,00,000/- for making two admissions regularized for the academic year 2004-2005 is concerned. For the foregoing reasons, impugned memo in proceedings No.250/H/04-05/Acad/IV-2, dated 30-1-2006 , to the extent of reducing two seats under the management quota for the academic year 2005-2006 is set aside, and, consequently, further proceedings No.554-MR/H-B.Ed/2005-06/Acad/IV-2, dated 18-4-2006, reducing intake capacity by two seats, so far as petitioner-College is concerned, is also set aside.

The Writ Petition is allowed to the extent indicated above. The Respondents are directed to issue revised affiliation proceedings, by duly mentioning intake capacity as 100 and permit the petitioner-College to fill up the seats under the management quota as per rules. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 10-07-2006.
Msnr